

HOUSE BILL 3768
By Rinks

AN ACT to amend Tennessee Code Annotated, Title 56,
relative to staff leasing companies.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-56-101, is amended by deleting the current language in its entirety and by substituting instead the following:

As used in this chapter, "employee benefit and welfare plan" means an employee benefit plan offered to the employees of employee or staff leasing companies or staff leasing groups that are duly licensed pursuant to the Tennessee Employee Leasing Act, compiled in title 62, chapter 43. Such plan shall meet the requirements of section 3(1) of the federal Employee Retirement Income Security Act of 1974, as amended, and shall provide benefits for medical, surgical, or hospital care or benefits in the event of sickness, accident, disability, or death, but shall not include short term or temporary leave or disability plans or programs maintained as personnel or employment policies by the employee or staff leasing company or staff leasing group or other payroll practice.

SECTION 2. Tennessee Code Annotated, Section 56-56-102, is amended by deleting the first sentence in its entirety, and by substituting instead the language, "An employee or staff leasing company or staff leasing group may sponsor and maintain employee benefit and welfare plans in accordance with the provisions of this chapter."

SECTION 3. Tennessee Code Annotated, Title 56, Chapter 56, is amended by inserting Sections 4 through 6 below as new, appropriately designated sections thereto.

SECTION 4. An employee or staff leasing company or staff leasing group may sponsor and maintain employee benefit and welfare plans for the benefit of its leased employees, and by

doing so, such a company or group shall not be deemed to be subject to any of the medical benefit requirements or other mandates of title 56, chapters 7 or 26.

SECTION 5. An employee leasing applicant or licensee shall disclose to the commissioner upon request, to each client company and to all eligible leased employees the following information relating to any employee welfare benefit plan provided for the benefit of its leased employees:

- (1) The type of coverage and a copy of the insurance policy or certificate or of the summary plan description;
- (2) The identity of each insurer, if any, for each type of coverage or a statement that the plan is self insured, if applicable;
- (3) The amount of benefits for each type of coverage and to whom or on whose behalf benefits will be paid; and
- (4) The policy limits on each insurance policy maintained by the applicant or licensee for the employee welfare benefit plan.

SECTION 6. Within six (6) months of the effective date of this act, an employee or staff leasing company or staff leasing group that chooses to provide to its leased employees an employee benefit and welfare plan through a plan or arrangement of self insurance shall, at a minimum:

- (1) Utilize a third-party administrator licensed to do business in this state to administer the employee benefit and welfare plan;
- (2) Hold all plan assets, including participant contributions, in a trust account;
- (3) Have a net worth determined using generally accepted accounting principles of at least one hundred thousand dollars (\$100,000). In lieu of the required net worth the employee or staff leasing company or staff leasing group may provide to the commissioner of commerce and insurance a surety bond or letter of credit in the amount

of one hundred thousand dollars (\$100,000). Notwithstanding any other law or regulation for an employee or staff leasing company or staff leasing group that chooses to provide to its leased employees an employee benefit and welfare plan through a plan or arrangement of self insurance, this shall be the exclusive net worth or reserve requirement; and

(4) Maintain a stop loss policy.

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.